IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL WRIT PETITION NO.114 OF 2007

Rajendra Yashvant Shah ...Petitioner.
V/s.
Dineshchandra Chunilal Mehta & Anr. ...Respondents.

Shri Amol Doijode, adv. for the Petitioner.
Smt. M.H.Mhatre, APP for the Respondent/State.
Shri M.S.Mohite, adv. for the Respondent No.1.

CORAM: J.H.BHATIA, J.
DATE : 30TH April, 2007.

P.C.:

1. Heard Mr.Doijode the learned counsel for the petitioner and Mr.Mohite the learned counsel for the respondent no.1.

2. To state in brief, the respondent no.1, who is original complainant, has filed a complaint under Section 138 of the Negotiable Instruments Act against the accused nos.1 and 2. That case was registered as criminal case no.167/S/1994 in the Court of Metropolitan Magistrate 27th Court, Mulund, Bombay and process was issued against both the accused. Against that order. Both the accused including the present petitioner, who is accused no.2, filed Revision Application No.308 of 2000. That revision application was disposed off for want of prosecution on 10-2-2005 by the Sessions Court. This writ petition is filed by the accused no.2 on 19th

January, 2007, i.e., almost two years after dismissal of the revision application. The only contention of the petitioner is that the accused no.1 was real borrower and as he has died pending the proceeding, the proceeding be quashed as far as the present petitioner is concerned. Admittedly the present petitioner is signatory of the cheque on the basis of which offence is registered under Section 138 of the Negotiable Instruments Act. It is now well settled that signatory of the cheque is personally liable. There is no substance in the petition. Further this petition is being filed more than 12 years after the process was issued and more than two years after revision application was dismissed. There has been long delay and latches on the part of petitioners.

3. In the result, Petition stands dismissed summarily.

4. The trial Court should proceed with the matter expeditiously. All the defences of the petitioner/accused no.2 are open and shall be considered on merits.

(J.H.Bhatia,J.)